

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

AMERICAN FIDELITY ASSURANCE COMPANY

PLAINTIFF

VS.

CIVIL ACTION NO. 3:22-cv-45-GHD-RP

**ALANA SIMPSON, MAKENNA SIMPSON,
BRANDEN SIMPSON, CYNTHIA SIMPSON,
AND THE ESTATE OF WILLIAM B. SIMPSON, DECEASED**

DEFENDANTS

AGREED ORDER DISMISSING AMERICAN FIDELITY ASSURANCE COMPANY

Before the Court is the Motion for Dismissal of Plaintiff, American Fidelity Assurance Company (“American Fidelity”) [Dkt. 20], in which the Plaintiff seeks its dismissal from this action with prejudice, and other relief, including reasonable attorneys’ fees and a permanent injunction. The Court, having considered the motion and finding that counsel for the Defendant, the Estate of William B. Simpson, Deceased, has no objection, finds that the motion is well-taken and should be GRANTED as follows:

1. This is an action for the interpleader of life insurance proceeds under Fed. R. Civ. P. 22. All Defendants have been properly joined and served. The Estate of William B. Simpson, Deceased, has entered an appearance through counsel. Defendants Alana Simpson, MaKenna Simpson, and Cynthia Simpson, have responded to the Complaint. Defendant Branden Simpson has not answered or otherwise entered an appearance.

2. This interpleader action involves a Renewable and Convertible Term Life Insurance Policy, Policy # 056396704, issued by American Fidelity and insuring Mr. Simpson’s life for \$100,000.00. On October 31, 2016, Mr. Simpson elected his Primary Beneficiary as his spouse, Cynthia Kay Simpson, and designated no Secondary Beneficiaries.

3. On April 9, 2018, Mr. and Mrs. Simpson's marriage was terminated by divorce through a Decree issued by the Chancery Court of Union County, Mississippi. This Decree incorporated the terms of a Property Settlement Agreement between the Simpsons.

4. Section 91-29-23 of the Mississippi Code, operative as of July 1, 2020, provides that a beneficiary designation of an ex-spouse made prior to a divorce may not be effective except in certain circumstances.

5. On November 11, 2021, Mr. Simpson passed away without a Will and Testament. American Fidelity initiated probate proceedings as the first step toward payment of Mr. Simpson's insurance benefits. On February 28, 2022, the Chancery Court of Tate County, Mississippi appointed Tim Hale, Chancery Clerk of Tate County, as Administrator of Mr. Simpson's Estate.

6. Cynthia Simpson filed a Consumer Complaint with the Mississippi Department of Insurance and asserted a claim to benefits under Mr. Simpson's Policy. She did not, however, assert a claim for benefits in response to American Fidelity's Complaint for Interpleader. Defendants MaKenna Simpson and Alana Simpson have asserted a claim for benefits under the Policy in this interpleader action.

7. American Fidelity was uncertain whether Ms. Simpson, the Estate, or some other beneficiary was legally entitled to the proceeds of the Policy, and it was justifiably uncertain as to whether payment of the policy benefits and interest would subject it to multiple and vexatious future litigation. Consequently, American Fidelity initiated estate and interpleader proceedings, and on June 13, 2022, it deposited the amount of \$101,846.83, representing benefits of \$100,000 plus accrued interest, into the registry of the Court.

8. American Fidelity is a disinterested stakeholder and has no substantial controversy with the Defendants to this action.

9. American Fidelity was obligated to retain legal counsel for the purpose of protecting its interest in prosecuting this action. It is entitled to recover its reasonable fees and expenses incurred in bringing this interpleader action. *Great American Life Ins. Co. v. Tanner*, No. 3:16-cv-70-DMB-JMW, 2017WL3396403 (N.D. Miss. Aug. 7, 2017); *see also, Murphy v. Travelers Ins. Co.*, 534 F.2d 1155, 1164 (5th Cir. 1976). American Fidelity has accrued \$6,119.00 in attorneys' fees and \$1,110.00 in court costs, for a total of \$7,229.00, as shown by the billing statement and Affidavit of counsel for American Fidelity. The Court finds that \$7,229.00 is a reasonable amount of reimbursement to American Fidelity for its attorneys' fees and costs.

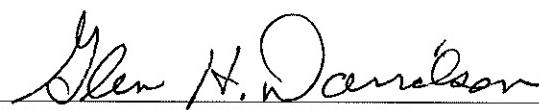
10. Counsel for the Estate of William B. Simpson, Deceased, has expressed no objection to American Fidelity's request for \$7,229.00 in attorneys' fees or to the dismissal of American Fidelity from this action.

IT IS, THEREFORE, ORDERED AND ADJUDGED:

- A. That Defendants be required to interplead and assert their respective claims to the subject funds paid into the registry of the Court and settle among themselves their rights or claims thereto;
- B. That the deposited funds in the amount of \$101,846.83 are the extent of American Fidelity's liability to anyone with respect to the benefits under the Policy;
- C. That, pursuant to Fed. R. Civ. P. 22, this Court enjoins and restrains the Defendants, their agents, attorneys, successors, personal representatives, heirs, devisees, legatees, and assigns from asserting, instituting, or prosecuting any and all demands, claims, actions, or causes of action against American Fidelity, its agents, officers, trustees, employees, representatives, attorneys, successors, and assigns with regard to, pertaining to, or in any manner relating to or arising out of the Policies in the funds related herein, and that in due

- course said Order of Injunction shall be made permanent as needed;
- D. That the Clerk of Court is ordered to disburse \$7,229.00 from the funds deposited into the registry of the Court as the reasonable attorneys' fees of American Fidelity, and to mail payment to its counsel of record, Kelly D. Simpkins, Wells Marble & Hurst, PLLC, Post Office Box 131, Jackson, Mississippi 39205-0131;
- E. That American Fidelity is fully discharged and shall have no further liability to anyone with respect to the benefits of the Policy; and
- F. That there is no just reason for delay and the Court expressly directs the entry of final judgment of dismissal with prejudice of Plaintiff, American Fidelity Assurance Company.

SO ORDERED AND ADJUDGED this, the 12th day of July, 2022.



SENIOR U.S. DISTRICT JUDGE

Agreed:

/s/ Kelly D. Simpkins
Kelly D. Simpkins (MSB #9028)
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